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## **PART 996—QUALITY ASSURANCE AND CERTIFICATION REQUIRE- MENTS FOR NOAA HYDRO- GRAPHIC PRODUCTS AND SERV- ICES**

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### **Subpart A—General**

#### **§ 996.1 Purpose and scope.**

The National Oceanic and Atmospheric Administration (NOAA) was mandated to develop and implement a quality assurance program that is equally available to all applicants,

under which the Administrator may certify hydrographic products that satisfy standards promulgated by the Administrator. “Hydrographic products” are any publicly or commercially available products produced by a non-Federal entity that include or display hydrographic data. The procedures established here by which hydrographic products are proposed for certification; by which standards and compliance tests are developed, adopted, and applied for those products; and by which certification may be awarded or denied are the mandated Quality Assurance Program. The execution of those procedures for specific hydrographic products is the implementation of the program.

#### **§ 996.2 Definitions.**

*Agency* means the National Oceanic and Atmospheric Administration.

*Applicant* means a non-Federal entity that is submitting a hydrographic product to the Quality Assurance Program for certification.

*Certification* means a determination made by NOAA that a hydrographic product submitted by a non-Federal entity has met the requirements established by NOAA for a particular hydrographic product or class.

*Department* means the Department of Commerce.

*Hydrographic data* means information acquired through hydrographic or bathymetric surveying, photogrammetry, geodetic, geospatial, or geomagnetic measurements, tide and current observations, or other methods, that is used in providing hydrographic services.

*Hydrographic product* means any publicly or commercially available product produced by a non-Federal entity that includes or displays hydrographic data.

*Hydrographic product class* means a group of hydrographic products with similar traits, attributes, purposes, or users.

*Hydrographic services* means

(1) The management, maintenance, interpretation, certification, and dissemination of bathymetric, hydrographic, geodetic, geospatial, geomagnetic, and tide and current information, including the production of

nautical charts, nautical information databases, and other products derived from hydrographic data;

(2) The development of nautical information systems; and

(3) Related activities.

*Quality Assurance Program* means a set of procedures by which hydrographic products are proposed for certification; by which standards and compliance tests are developed, and, if suitable, are adopted by NOAA for those products; and by which certification of individual products may be awarded or denied.

*Quality Assurance Program implementation* means the execution of the Quality Assurance Program procedures for specific hydrographic products.

*Sponsor* means a non-Federal entity that is submitting a hydrographic product to the Quality Assurance Program for the development of standards and compliance tests.

#### § 996.3 Fees.

NOAA may charge for its Quality Assurance Program activities such sums as may be permitted or required under this Act, or under other statutory authorities. Such sums are non-refundable. NOAA will attempt to identify any such charges upon first submission of a hydrographic product. However, the intent to charge and the amounts may change. NOAA will promptly notify the sponsor of any such changes, and will permit the sponsor to withdraw hydrographic products from consideration under the Quality Assurance Program should they so choose.

#### § 996.4 Liability.

The Government of the United States shall not be liable for any negligence by producers of hydrographic products certified under this part.

### Subpart B—The Quality Assurance Program for Hydrographic Products

#### § 996.10 Submission and selection of hydrographic products for the development of standards and compliance tests.

(a) Any non-Federal entity may submit a hydrographic product to be considered for the development of stand-

ards and compliance tests under this Quality Assurance Program.

(b) Submission shall be made to the Quality Assurance Program address below, or to such other address as may be indicated in the future: Director (N/CS), ATTN: Hydrographic Product Quality Assurance Program, Office of Coast Survey, NOAA, 1315 East West Highway, Silver Spring, MD 20910.

(c) The submission shall include

(1) Name and description of the proposed hydrographic product.

(2) The non-Federal entity submitting the product for the development of standards and compliance tests, and contact information for that entity. This non-Federal entity shall be known as the sponsor.

(3) The names and contact information of proposed representatives of the affected communities who have committed to participate substantively in the writing of standards and compliance tests. Affected communities might include: manufacturers, users, regulators, resellers, developers of products that use certified hydrographic products such as datasets, and manufacturers of competing or substitute products.

(4) The names and contact information of the standards setting body, and the compliance testing body under whose authority it is proposed that the standards and compliance tests be written and adopted.

(5) Information deemed relevant by the sponsor for NOAA to consider in deciding whether to proceed with the development of standards, compliance tests, and certification. Such information should address at a minimum:

(i) The type and magnitude of the public benefits and enhancement of public safety that would be achieved;

(ii) The breadth of support for standards and certification among all the affected communities;

(iii) The practicality of writing and enforcing an effective and appropriate standard;

(iv) The availability of suitable, similar products that may already meet the needs of the public; and

(v) The required expertise needed to write an appropriate standard.

(d) NOAA may, at its option, define a hydrographic product class of which

the proposed hydrographic product is a specific instance. Standards and compliance tests may then be prepared for the class rather than for an individual non-Federal entity's specific product.

(e) NOAA shall publicize, in the FEDERAL REGISTER or by other appropriate means, the hydrographic product or class in order to solicit comments on the proposal that standards and compliance tests be written and certification be offered for that hydrographic product or class. Comments might include, but are not limited to, general information; statements of interest in participating in the development of standards and compliance tests; or objections to acceptance of the hydrographic product or class into this Quality Assurance Program. Instructions for commenting and the duration of the comment period will be included in the announcement.

(f) NOAA shall decide, if its other obligations permit, within 60 calendar days of the close of the comment period whether to proceed with the development of standards, compliance tests, and certification for the proposed hydrographic product or class. NOAA may request further information, and shall have additional time as required to consider the information once received. NOAA's decision on whether to proceed shall be based on the following criteria:

(1) The magnitude of the public benefit and enhancement of public safety that would be achieved compared to the commitment of federal resources that would be required;

(2) The breadth of support for standards and certification among all the affected communities;

(3) The practicality of writing and enforcing an effective and appropriate standard;

(4) The availability of suitable, similar products that may already meet the needs of the public;

(5) NOAA's expertise related to the expertise needed to write an appropriate standard;

(6) Availability of resources; and

(7) Other relevant criteria as they become apparent.

(g) NOAA's decision as to whether the proposed hydrographic product or class is accepted into the Quality As-

urance Program shall be publicly announced in the FEDERAL REGISTER or by other appropriate means, and a written notification shall be provided to the sponsor. The response shall include NOAA's reason for its decision based on the criteria enumerated above.

(h) Any party, including the sponsor, shall have an opportunity to request reconsideration of NOAA's decision. Said request shall be submitted in writing, to the Quality Assurance Program address, postmarked within 30 days of NOAA's announcement of its decision, and shall contain written material supporting the requestor's position. NOAA shall have, if its other obligations permit, 60 calendar days from the receipt of a request for reconsideration to either deny the request, or to reconsider and announce its decision.

(i) NOAA's decision, either the original decision if unappealed within 30 days, or the decision after the request for reconsideration, shall be considered final.

(j) NOAA itself may choose to identify a hydrographic product or class, which may or may not yet exist, but for which it intends to adopt standards, compliance tests, and to offer certification. In such cases, NOAA will be considered the sponsor. The procedures to be followed for NOAA-sponsored hydrographic products or classes shall be the same as for those sponsored by non-Federal entities, including the procedures for announcement, comment, and reconsideration.

**§ 996.11 Development of standards for a hydrographic product or class.**

(a) NOAA shall work, to the extent practicable, through existing, recognized, standards bodies in the writing and adopting of standards for a hydrographic product or class that NOAA has accepted into this program. It shall be the responsibility of the sponsor to propose an appropriate standards writing body. NOAA may accept this body at its discretion, or may select an alternate body. NOAA will then undertake, jointly with the sponsor and acknowledged representatives of the affected communities, to submit the proposal for writing standards to, and to

secure the cooperation of, the selected standards writing body.

(b) Once accepted as a work item by the standards writing body, NOAA shall undertake, jointly with representatives of the affected community, members of the standards body, other governmental representatives, and the sponsor as appropriate, to write standards for the hydrographic product or class according to the practices of the standards body and the technical needs of the product. Participation in the writing of standards shall be determined according to the procedures of the standards writing body.

(c) NOAA shall then undertake, jointly with representatives of the affected community, members of the standards body and the body itself, other governmental representatives, and the sponsor as appropriate, to have the resulting standard officially adopted by the standards body according to the procedures of that body.

(d) NOAA may, at its option, proceed without the participation of an existing, recognized, standards body should it so choose. Such action might be taken, for example, if there were no appropriate standards body. In this eventuality, NOAA shall adhere to the following general procedure.

(1) Announce, in the FEDERAL REGISTER or by other appropriate means, NOAA's intention to organize and chair a working group to write and publish standards for the proposed hydrographic product or class;

(2) Solicit, via the FEDERAL REGISTER or by other appropriate means, participation and select, reject, and/or revoke permission to participate as NOAA deems appropriate so as to proceed in an orderly and representative manner in writing a standard;

(3) Initiate, schedule, host, and chair, or designate a chair for, the work of the working group;

(4) Circulate, via the FEDERAL REGISTER or by other appropriate means, the drafts of the working group;

(5) Announce, via the FEDERAL REGISTER or by other appropriate means, the NOAA proposed standard and provide an opportunity for public comment;

(6) Announce, via the FEDERAL REGISTER or by other appropriate means,

and make available as a standard, the final version of the standard; and

(7) Provide the necessary administrative support.

(e) NOAA may, at its option, adopt an existing standard as the NOAA standard for this program. In this eventuality, NOAA shall adhere to the following general procedure.

(1) Announce, in the FEDERAL REGISTER or by other appropriate means, NOAA's intention to adopt an existing standard for the proposed hydrographic product or class; and

(2) Solicit, via the FEDERAL REGISTER or by other appropriate means including public meetings, comment on the standard that NOAA proposes to adopt, and shall consider the comments received.

(f) Alternatively, NOAA may at its option, proceed by writing a standard by itself. Such action might be used, for example, in cases where the standard is obvious. Producing exact copies of existing NOAA products might be one such case. Once written, this NOAA-authored standard shall be made publicly available for comment, and comments shall be considered before NOAA publishes the final standard.

(g) At the conclusion of the standards writing, whether through an existing standards body, by a NOAA-convened working group, by adopting an existing standard, or by NOAA itself, NOAA shall consider the resulting standard and comments, and either adopt or reject the standard as the NOAA Quality Assurance Program Standard for the particular hydrographic product or class. NOAA's decision shall be publicly announced in the FEDERAL REGISTER or by other appropriate means.

(h) Any party may request NOAA to reconsider its decision to adopt or reject the standard by submitting its request in writing to the Quality Assurance Program address within 30 days of NOAA's announcement of its decision. NOAA shall have, if its other obligations permit, 60 calendar days from the receipt of a request for reconsideration to either deny the request, or to reconsider and announce its decision. NOAA's original decision if unappealed within 30 days, or its decision upon reconsideration shall be considered final.

**§ 996.12 Development of standards compliance tests for a hydrographic product or class.**

(a) NOAA shall work, to the extent practicable, through existing, recognized, compliance testing bodies in the writing and adopting of compliance tests for a hydrographic product or class. It shall be the responsibility of the sponsor to propose an appropriate compliance testing body. NOAA may accept this body at its discretion, or may select an alternate body. NOAA will then undertake, jointly with the sponsor and acknowledged representatives of the affected communities, to secure the cooperation of the selected compliance testing body.

(b) NOAA shall undertake, jointly with representatives of the affected community, members of the compliance testing body, other governmental representatives, and the sponsor as appropriate, to write compliance tests for the hydrographic product or class according to the practices of the compliance testing body and the Quality Assurance Program standard adopted by NOAA. Participation in the writing of compliance tests may be determined according to the procedures of the compliance testing body.

(c) NOAA shall then undertake, jointly with representatives of the affected community, members of the compliance testing body and the body itself, other governmental representatives, and the sponsor as appropriate, to have the resulting compliance tests adopted according to the procedures of that body.

(d) NOAA may, at its option, proceed without the participation of an existing, recognized, compliance testing body should it so choose. Such action might be taken, for example, if there were no appropriate compliance testing body. In this eventuality, NOAA will adhere to the following general procedure:

(1) Announce, in the FEDERAL REGISTER or by other appropriate means, NOAA's intention to organize and chair a working group to write and publish compliance tests for the hydrographic product or class;

(2) Solicit, via the FEDERAL REGISTER or by other appropriate means, participation and select, reject, and/or revoke

permission to participate as NOAA deems appropriate so as to proceed in an orderly and representative manner in writing compliance tests;

(3) Initiate, schedule, host, and chair, or designate a chair for, the work of the working group;

(4) Circulate, via the FEDERAL REGISTER, or by other appropriate means, the drafts of the working group;

(5) Announce, via the FEDERAL REGISTER or by other appropriate means, a NOAA proposed final version of the compliance tests and provide an opportunity for public comment;

(6) Announce, via the FEDERAL REGISTER or by other appropriate means, and make available the final version of the compliance tests, and

(7) Provide the necessary administrative support.

(e) NOAA may, at its option, adopt existing compliance tests as the NOAA compliance tests for this program. In this eventuality, NOAA shall adhere to the following general procedure:

(1) Announce, in the FEDERAL REGISTER or by other appropriate means, NOAA's intention to adopt existing compliance tests for the proposed hydrographic product or class; and

(2) Solicit, via the FEDERAL REGISTER or by other appropriate means including public meetings, comment on the proposed compliance tests that NOAA proposes to adopt, and shall consider the comments received.

(f) Alternatively, NOAA may, at its option, proceed by writing compliance tests by itself. Such action might be used, for example, in cases where the tests are obvious. Producing exact copies of existing NOAA products might be one such case. Once written, these NOAA-authored tests shall be made publicly available for comment, and comments shall be considered before NOAA publishes the final compliance tests.

(g) At the conclusion of the compliance test writing, whether through an existing body, by a NOAA-convened working group, by adopting existing compliance tests, or by NOAA itself, NOAA shall consider the resulting compliance tests and comments, and either adopt or reject them as the NOAA Quality Assurance Program

compliance tests for the particular hydrographic product standard. NOAA's decision shall be publicly announced in the FEDERAL REGISTER or by other appropriate means.

(h) Any party may request NOAA to reconsider its decision to adopt or reject the compliance tests by submitting its request in writing to the Quality Assurance Program address within 30 days of NOAA's announcement of its decision. NOAA shall have, if its other obligations permit, 60 calendar days after the receipt of a request for reconsideration to either deny the request, or to reconsider and announce its decision. NOAA's original decision if unappealed within 30 days, or its decision upon reconsideration shall be considered final.

**§ 996.13 Determination of whether to offer certification for a hydrographic product or class.**

(a) Certification of a hydrographic product or class shall be at the option of NOAA. NOAA may decide at any time whether or not to offer certification for a product or class. However, it is most likely that a determination will be made only after a non-Federal entity has submitted a specific product for certification. NOAA's decision shall be based on the following criteria:

- (1) The suitability of the adopted standards and tests for their intended purpose;
- (2) The availability of a qualified entity to perform the compliance tests;
- (3) Availability of resources; and
- (4) Other relevant criteria as they become apparent.

(b) NOAA's decision as to whether certification for a hydrographic product or class is offered shall be publicly announced in the FEDERAL REGISTER or by other appropriate means.

(c) Any entity may request NOAA to reconsider its decision to offer or not offer certification by submitting its request in writing to the Quality Assurance Program address within 30 days of NOAA's announcement of its decision. NOAA shall have, if its other obligations permit, 60 calendar days after the receipt of a request for reconsideration to either deny the request, or to reconsider and announce its decision.

(d) NOAA's original decision if unappealed within 30 days, or its decision upon reconsideration, shall be considered final.

**Subpart C—Certification of a Hydrographic Product and Decertification.**

**§ 996.20 Submission of a hydrographic product for certification.**

(a) Upon adoption by NOAA of standards and compliance tests, any non-Federal entity may submit a hydrographic product for certification under a particular standard. This non-Federal entity shall be known as the applicant. Submission shall be made in writing to the Quality Assurance Program address. The submission shall include:

- (1) Name and description of the hydrographic product and its product class if any;
- (2) Identification and contact information for the non-Federal entity submitting the product for certification.
- (3) The identification of the standard and compliance tests adopted by this Quality Assurance Program under which the hydrographic product is to be certified;
- (4) A proposed, qualified, competent, independent compliance testing body to perform the compliance tests, which NOAA may accept at its discretion, or for which NOAA may select an alternative testing body;
- (5) Other information deemed relevant by the sponsor or requested by NOAA.

(b) [Reserved]

**§ 996.21 Performance of compliance testing.**

(a) NOAA and the applicant shall submit the applicant's hydrographic product to the testing body for performance of the compliance tests. That body shall determine compliance or non-compliance of the hydrographic product with the NOAA-adopted standard, and shall provide to NOAA written documentation stating the results of the compliance tests according to its usual practices.

(b) Alternatively, NOAA may choose, at its option, to perform, have performed by a NOAA-designated entity,

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or waive the compliance tests for a hydrographic product. This alternative may be used, for example, when there is no qualified entity to perform the compliance tests, where the compliance tests are simple, or when self-certification of compliance would be appropriate.

(c) Items failing the compliance tests may be changed by the applicant and retested. Items passing the compliance test upon retest shall be deemed compliant as if they had passed said tests initially.

### § 996.22 Certification.

(a) A hydrographic product that has passed the compliance tests shall automatically be considered for certification by NOAA. NOAA shall make its certification determination, if its other obligations permit, within 60 calendar days following receipt of the compliance test results. NOAA shall make a certification determination based upon the following criteria:

(1) The results of the compliance tests;

(2) The potential for the hydrographic product to impair public safety;

(3) Successful completion of any administrative requirements, including the payment of required fees, as may be specified by NOAA;

(4) The potential for certification to cause embarrassment to the Agency or the Department;

(5) Other relevant criteria as they become apparent.

(b) Hydrographic products receiving a certification determination in the affirmative shall be designated as “certified” by NOAA. NOAA shall provide a written document to the sponsor indicating such, and shall announce its determination in the FEDERAL REGISTER or by other appropriate means. Certification shall mean that the hydrographic product has been found to be in compliance with the NOAA-adopted standard for that hydrographic product or class. Certification conveys no express or implied warranty as to the merchantability or fitness for a particular purpose; conveys no express or implied liability on the part of the Government of the United States for the hydrographic products; and con-

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veys no automatic, direct or indirect NOAA endorsement of any product or service.

(c) Certification shall be for a term of 3 years unless otherwise specified by the Administrator.

(d) A certification may be renewed, at the request of sponsor and the option of NOAA, for a period of 2 years. Sponsors may request the renewal of a certification by writing to the Quality Assurance Program address at least 120 calendar days before the expiration of an existing certification. The request shall include:

(1) Identifying and contact information for the sponsor;

(2) Identifying information for the relevant hydrographic product(s) and the standard(s) under which they were certified;

(3) Evidence sufficient to assure NOAA that the hydrographic product still meets the standard under which it was certified; and

(4) Other information as may be requested by NOAA.

(e) NOAA shall decide within 60 calendar days, if its other obligations permit, whether to renew a certification. NOAA’s decision shall be based on whether the hydrographic product continues to meet the applicable standard, and other relevant criteria as they become apparent.

(f) The sponsor shall have an opportunity to request reconsideration of NOAA’s decision. Said request shall be submitted in writing, to the Quality Assurance Program address, postmarked within 30 days of NOAA’s announcement of its decision, and shall contain written material supporting the requestor’s position. NOAA shall have, if its other obligations permit, 30 calendar days from the receipt of a request for reconsideration to either deny the request, or to reconsider and announce its decision.

(g) NOAA’s decision, either the original decision if unappealed within 30 days, or the decision after the request for reconsideration, shall be considered final.

### § 996.23 Audit and decertification of hydrographic products.

(a) NOAA may audit hydrographic products it has certified. NOAA may

conduct audits without advance notification. However, visits to companies' facilities will be scheduled. Audits may include, but are not limited to:

- (1) The producing companies as it may affect the certified product;
- (2) Certified products;
- (3) Processes used in making, distributing, and marketing certified products;

- (4) Use of the NOAA emblem;
- (5) Examination of manufacturers' public claims about certified hydrographic products;

- (6) Other relevant criteria as they become apparent.

(b) NOAA may decertify a hydrographic product based on the findings of an audit. In general, a hydrographic product may be decertified if:

- (1) The results of an audit indicate that the product no longer meets the standards under which it was certified;

- (2) The product has been substantively changed from the product that was tested and certified;

- (3) Implied or actual claims about the product, and/or other data or products linked to the product, are judged by NOAA to be untrue or misleading;

- (4) The NOAA emblem was improperly or inappropriately displayed;

- (5) Other relevant reasons as they become apparent.

(c) A producing company may decline to reveal information during an audit that it declares to be proprietary or for other reasons. In this eventuality, NOAA reserves the right to decertify based on lack of information should it deem that action appropriate.

(d) The entity producing the certified hydrographic product shall be notified in writing of NOAA's intent to decertify that product. Said entity shall have 30 days to request reconsideration of that intended action in writing to the Quality Assurance Program address. Said request shall contain the identification of the hydrographic product, the requestor, and sufficient information for NOAA to make a determination on the request for reconsideration. Alternatively, the entity may correct the deficiencies cited by NOAA within 30 days, notify NOAA in writing at the Quality Assurance Program address of the corrective action taken, and provide sufficient evidence for

NOAA to judge the correctness and effectiveness of the corrective action taken.

(e) If a request for reconsideration is submitted, or if the producing entity asserts that the deficiencies have been corrected, NOAA shall have 60 calendar days, if its other obligations permit, to consider the request for reconsideration or the corrective action, at which time NOAA shall issue its decertification decision. The decision and NOAA's reason for its action shall be made public in the FEDERAL REGISTER or by other appropriate means, and the producing entity shall be notified in writing.

(f) NOAA's decertification, if unappealed or uncorrected within 30 days, shall be considered final. NOAA shall notify the producing entity of this action in writing, and announce the decertification in the FEDERAL REGISTER or by other appropriate means.

(g) Upon decertification, manufacturers shall discontinue all claims of certification, and shall discontinue use of the NOAA emblem.

#### **Subpart D—Other Quality Assurance Program Matters**

##### **§ 996.30 Use of the NOAA emblem.**

(a) Use of the NOAA emblem on certified hydrographic products requires separate written permission. Use of the NOAA emblem must satisfy an interest of the Agency, and must not result in embarrassment to the Agency or the Department. If the NOAA emblem is used on products that include other data or products, clear indication shall be made as to what is NOAA certified, and what is not NOAA certified. The inclusion of other data or products will not constitute any endorsement of, or favoritism toward, the other data or products by NOAA. Requests for use of the NOAA emblem shall be submitted in writing to the Quality Assurance Program address, and shall include:

- (1) Name and description of the hydrographic product(s) on which the emblem will be displayed.

- (2) Name and contact information for the entity requesting use of the NOAA emblem.

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(3) Exact samples of all uses intended for the NOAA emblem including text claims with, within, or associated with the hydrographic product, its packaging, and advertising that a reasonable person might associate with the NOAA emblem.

(4) Proof of NOAA certification.

(5) Other relevant information as may later be specified.

(b) [Reserved]

## **§ 996.31 Termination of the Quality Assurance Program.**

(a) NOAA reserves the right to terminate the Quality Assurance Program for a particular hydrographic product or class at any time before certification is awarded if it is deemed to be in the public interest to do so. NOAA shall give written notification to the sponsor and other interested parties should it decide to exercise this option, and shall state the reasons for its action. Reasons for termination may include, but are not limited to:

(1) The inability of the standards-drafting group to reach a consensus on the content of the standard;

(2) Valid objections to the existence of NOAA-certification of a particular hydrographic product or class;

(3) A negative impact on public safety should the hydrographic product receive certification;

(4) Other relevant reasons as they become apparent.

(b) The sponsor or other interested parties shall have 30 days to request a reconsideration of the termination action. Said request shall be in writing to the Quality Assurance Program address, and shall include written material supporting the appeal. NOAA shall have, if its other obligations permit, 60 calendar days from the receipt of a request for reconsideration to either deny the request, or to reconsider and announce its decision.

(c) NOAA's decision, either the original decision if unappealed within 30

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days, or the decision after the request for reconsideration, shall be considered final.

## **§ 996.32 Appeals.**

(a) Any entity may appeal a final decision made by the Agency under this Quality Assurance Program. Said appeal shall be submitted in writing to the Quality Assurance Program address, and shall contain at least:

(1) Identification and contact information of the appealing entity;

(2) A statement that this is an appeal to a final decision of the Quality Assurance Program;

(3) A description of what decision is being appealed;

(4) A thorough but concise argument as to why the requestor believes the Quality Assurance Program decision being appealed should be set aside.

(5) Other information as may later be determined to be relevant.

(b) Appeals shall be arbitrated by the Assistant Administrator for Ocean Services and Coastal Zone Management, NOAA, using procedures to be established at the time of the appeal, and which shall be appropriate to the nature and circumstances of the appeal. The determination from this arbitration shall be final for purposes of judicial review under the Administrative Procedure Act and other statutes.

## **§ 996.33 Acceptance of program by non-Federal entities.**

By their voluntary entrance or participation in this Quality Assurance Program or its activities, all parties acknowledge and accept the procedures established by this program, including the finality of decisions. All parties acknowledge and accept that information submitted to NOAA under this Program shall be deemed to be in the public domain, and no representation is made as to the protection of confidential, proprietary or otherwise restricted information.